

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AURELIO MARTINEZ RODRIGUEZ,

Defendant.

4:17-CR-3036

ORDER

This matter is before the Court on the defendant's motion to return the following items of seized property: one LG cell phone; three iPhones and one Motorola cell phone; one Toshiba external hard drive, one WD My Passport External hard drive, and one Phillips thumb drive; one Samsung tablet and one MacBook Pro laptop; one HP Envy laptop; and six Samsung cellphones. [Filing 67](#). That motion will be granted in part.

The government has responded to the defendant's motion, stating that the requested property is in the custody of the Lincoln Police Department. [Filing 69 at 1-2](#). It has also informed the Court that one item of the defendant's property—the Motorola cell phone—is being used as evidence in a pending criminal case. [Filing 69 at 1](#). Accordingly, the defendant is not entitled to the return of the Motorola cell phone, *United States v. Vanhorn*, 296 F.3d 713, 719 (8th Cir. 2002), and his motion for the return of that property will be denied.

The Court will grant the defendant's motion with respect to the remaining items of property, to which the government does not object. Indeed, the government has sent a letter to the Lincoln Police Department's Property Room authorizing the release of the defendant's property (with the exception of the Motorola cell phone) to his lawyer, Shirley A. Mora James. [Filing 70-1](#)

at 1. The defendant's counsel shall retrieve the items from the Lincoln Police Department within 14 days of the issuance of this Order, or at her earliest possible convenience. Further, the government shall provide a copy of this Order to the Lincoln Police Department's Property Room on or before Monday, July 16, 2018.

IT IS ORDERED:

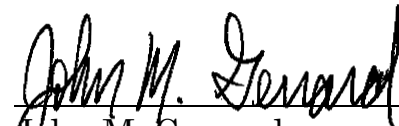
1. The defendant's motion for the return of seized property (filing 67) is granted in part. Specifically, the defendant's motion is granted with respect to the following items:
 - a. One LG cell phone;
 - b. Three iPhones;
 - c. One Toshiba external hard drive, one WD My Passport External hard drive, and one Phillips thumb drive;
 - d. One Samsung tablet and one MacBook Pro laptop;
 - e. One HP Envy laptop; and
 - f. Six Samsung cellphones.
2. The defendant's motion for the return of his Motorola cell phone is denied. The Motorola cell phone shall not be released to the defendant at this time.
3. The defendant's counsel, Shirley A. Mora James, shall retrieve the defendant's returnable possessions from the Lincoln Police Department's Property Room within 14 days

of the issuance of this Order, or at her earliest possible convenience.

4. The government shall provide a copy of this Order to the Lincoln Police Department's Property Room on or before Monday, July 16, 2018.

Dated this 11th day of July, 2018.

BY THE COURT:



John M. Gerrard
United States District Judge